

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----	X	
CATHY AREU,	:	
	:	
Plaintiff,	:	Civil Case No. 1:20-cv-08678-RA
	:	
against	:	
	:	
FOX NEWS NETWORK, LLC, ED HENRY,	:	
SEAN HANNITY, TUCKER CARLSON and	:	
HOWARD KURTZ, in their individual and	:	
professional capacities,	:	
	:	
Defendants.	:	
-----	X	

NOTICE OF MOTION TO WITHDRAW COUNSEL

PLEASE TAKE NOTICE that pursuant to Local Rule 1.4 and the accompanying Declaration, Robert J. Valli, Jr., of Valli Kane & Vagnini LLP (“VKV”), respectfully moves to withdraw the appearance of VKV and all attorneys associated with VKV as counsel in the above-captioned proceeding for Plaintiff Cathy Areu. Plaintiff Cathy Areu has terminated the firm’s representation.

Accordingly, undersigned counsel respectfully requests that Matthew Berman, Monica Hincken, Sara Wyn Kane and Robert J. Valli, Jr. be removed as counsel for this proceeding.

Respectfully submitted:

October 13, 2021

/s/ Robert J. Valli, Jr.
Robert J. Valli, Jr.
Valli Kane & Vagnini LLP
600 Old Country Road, Ste. 519
Garden City, NY 11530
Tel. (516) 203-7180
Fax. (516) 706-0248
rvalli@kvlawyers.com

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----	X	
CATHY AREU,	:	
	:	
Plaintiff,	:	Civil Case No. 1:20-cv-08678-RA
	:	
against	:	
	:	
FOX NEWS NETWORK, LLC, ED HENRY,	:	
SEAN HANNITY, TUCKER CARLSON and	:	
HOWARD KURTZ, in their individual and	:	
professional capacities,	:	
	:	
Defendants.	:	
-----	X	

DECLARATION OF ROBERT J. VALLI, JR.

I, **ROBERT J. VALLI, JR.**, under the penalty of perjury, declare:

1. I am a Partner at Valli Kane & Vagnini LLP (“VKV” or “firm”) and am admitted to practice law in this District and in the State of New York.
2. I submit this declaration in response to the Court’s ECF bounce of October 13, 2021.
3. Ms. Areu retained VKV on August 24, 2020. The retainer agreement specifically states that Ms. Areu did not retain one individual attorney at the firm.
4. On September 9, 2021, the District Court issued its order on Defendants’ Motions to Dismiss and other related motions.
5. Thereafter, various attorneys at VKV engaged in privileged attorney/client communications with Ms. Areu.
6. On September 15, 2021, through her new counsel, Ms. Areu terminated the firm’s representation of her in this matter.
7. On September 15, 2021, I and other attorneys at the firm received an email from Ms. Areu’s new Attorney, Richard E. Lerner of Mazzola Lindstrom LLP. In his email Mr. Lerner

stated, “We have been formally retained to represent Cathy Areu in her action against Fox News Network, LLC, Ed Henry, Sean Hannity, Tucker Carlson, and Howard Kurtz. Accordingly, we would like to speak with you about the transition of the case from your firm to ours, including discussing any lien you may have.”

8. On September 15, 2021, Ms. Areu executed the Consent Order Granting Substitution of Attorney.

9. On September 17, 2021, Mr. Lerner filed a proposed order for substitution in this matter. The Order listed James Vagnini / Valli, Kane & Vagnini, LLP as the withdrawing Attorney(s) and Mazzola Lindstrom LLP as the new attorney. This version of the Consent Order was only signed by Ms. Areu.

10. On September 17, 2021, in response to the ECF substitution request, Judge Gorenstein’s chambers emailed Mr. Lerner stating:

Dear Mr. Lerner:

With regard to this filing (Docket # 55), Judge Gorenstein cannot sign the proposed order but it does not indicate that plaintiff’s current attorneys consent to the substitution. If you are being added as an attorney, you should instead file a Notice of Appearance. (<https://www.uscourts.gov/forms/attorney-forms/appearance-counsel>). If you are being substituted, the current attorneys should sign the form or a duplicate form. Please do not reply to this email. Any inquiry to Judge Gorenstein may be made by letter filed on ECF.

--Chambers of Magistrate Judge Gorenstein

11. Given Chamber’s use of the word attorneys, we did not contemplate that the Court considered the substitution to pertain to only one attorney at my firm.

12. Subsequently, on September 17, 2021, Mr. Lerner filed an updated substitution form signed by Ms. Areu, James A. Vagnini of VKV and what appears to be Mr. Lerner.

13. On September 20, 2021, the Court issued ECF Document No. 60, approving the

substitution of Richard E. Lerner as counsel of record in place of James Vagnini/Valli Kane & Vagnini LLP. Based upon this order, which lists the Valli Kane & Vagnini LLP firm as withdrawing its appearance, in addition to the prior communication from the Court, all the attorneys at VKV understood that the Court's order included the substitution and withdrawal of each attorney and the firm as a whole.

14. On September 23, 2021, Mr. Lerner wrote to Judge Abrams stating in part "[o]n September 20th, this law firm was substituted in as counsel for plaintiff Cathy Areu. VKV deemed this communication as further affirmation that VKV was no longer counsel of record.

15. Moreover, other than communications about transitioning the file and VKV's lien, there were no further substantive communications about this case between any attorney at VKV with Ms. Areu, her new counsel or any of Defendants' Counsel.

16. As previously communicated with Mr. Lerner, VKV is only seeking a charging lien in this matter.

17. Therefore, in response to the Court's Order today (Document # 68), to the extent all attorneys at VKV were not previously considered to be withdrawn from this case, I respectfully request that Matthew Berman, Monica Hincken, Sara Wyn Kane and Robert J. Valli, Jr. (aka Robert John Valli, Jr.) be withdrawn as counsel for Ms. Areu.

Executed this day of October 13, 2021.

/s/ Robert J. Valli, Jr.

Robert J. Valli, Jr.

CERTIFICATE OF SERVICE

I hereby certify that on October 13, 2021, I caused the foregoing Motion to Withdraw, and accompanying Declarations, to be served upon: (1) Counsel for Cathy Areu by CM/ECF; and (2) all other parties by using the electronic service system (CM/ECF), which will send a notice of electronic filing to all counsel of record.

By: /s/ Robert J. Valli, Jr.
Robert J. Valli, Jr.
Valli Kane & Vagnini LLP
600 Old Country Road, Ste. 519
Garden City, NY 11530
Tel. (516) 203-7180
Fax. (516) 706-0248
rvalli@vkvlawyers.com